

STATEMENT OF HILDA A. MANUEL, DEPUTY COMMISSIONER OF INDIAN AFFAIRS, BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR, BEFORE THE SENATE COMMITTEE ON INDIAN AFFAIRS, ON S. 814, THE BUREAU OF INDIAN AFFAIRS REORGANIZATION ACT OF 1995.

June 28, 1995

Good morning Mr. Chairman and Members of the Committee. I am pleased to be here today to present the views of the Department of the Interior on S. 814, a bill to provide for the reorganization of the Bureau of Indian Affairs (BIA). As the Secretary of the Interior expressed on March 8, 1995, the Department shares the Committee's interest in changing the way this Government carries out its special legal responsibilities, consistent with the government-to-government relationship.

The Department also agrees that Indian Tribes, in this special relationship, must be afforded an active role and participation in any reorganization effort. Tribes must be ensured of the protection and preservation of the Federal trust responsibility as set out in treaties, legislation, executive orders, and court decisions. In this regard, the Department supports the overall intent and objective of S. 814.

The Department does not, however, believe that legislation is necessary to mandate the reorganization of the BIA. We say this with full knowledge that many tribes and perhaps even members of this Committee are skeptical that this can happen without a mandate from Congress. Certainly we are aware of the numerous studies and efforts undertaken over the past 20 years which have failed to reorganize, restructure, and reduce the size of the BIA. This time

we are confident that reorganization will occur because of several major driving forces.

The Department strongly believes that Pub. L. 103-413, the Indian Self-Determination Act Amendments of 1994, enacted by Congress last year to make the Self-Governance demonstration project a permanent program, will serve to be the single most compelling force to drive the reorganization of the BIA. This recently enacted legislation presents an unprecedented opportunity for Tribes to participate in the reorganization of the BIA through the tribal shares determination process it authorized. This process sets out the framework to expand the scope of contracting and compacting by Tribes for all functions, activities, and services, without regard to the organizational level within the BIA.

The process also provides an unprecedented opportunity for the BIA to re-examine its role and to begin focusing on carrying out only those core residual functions which are necessary in fulfilling the Federal trust responsibility.

As tribal shares are negotiated and residual functions identified, the BIA will need to restructure and downsize to accommodate the delivery of tribal shares to Tribes. Moreover, as tribal contracting and self-governance compacting increase, BIA staffing will be reduced to a level that allows the BIA to carry out only those core residual functions agreed to by both the Tribes and the Secretary as necessary to fulfill the trust responsibility and provide remaining services to Tribes that choose not to contract or compact. To this end, the BIA has developed, in conjunction with

self-governance negotiations, a process to begin determining tribal shares in partnership with the Tribes at each Area Office.

It is our hope that through this partnership, agreement can be reached on how best to restructure the BIA. All of the 12 Area Directors have already been instructed to convene meetings with Tribes in their administrative jurisdictions to begin the process which we hope will result in the identification of uniform program definitions, the level of program functions to be left at their Area Offices, formulas for the determination of tribal shares for those remaining programs, and the core residual functions.

At my direction, the Areas began the initial stages of this process in April 1995, with a goal of a deadline for completion of the first round of negotiations and meetings by the end of the summer. We expect that both Agency and Area programs will be reviewed and discussed to arrive at a tribal share for every Tribe in an Area, including those who choose to rely on BIA for delivery of program services. This is necessary in determining the size of the programs that will remain with BIA.

The self-governance Tribes whose tribal shares have previously been determined, and in most cases already base-transferred, will be given the option of participating along with the non-self-governance Tribes. However, their participation is conditioned on their agreement at the outset to put back on the table their previously negotiated tribal shares for re-negotiation. We expect that this process will result in restructured Agency and Area

Offices in line with the final negotiations on tribal shares and residual functions.

This same process is also central to the reorganization of the Central Office. As this Committee is aware, the BIA recently submitted the final report on Central Office formulas in accordance with Pub. L. 103-413. The proposal calls for the determination of tribal shares for both the self-governance and self-determination contract Tribes. Because Tribes will not be contracting or compacting for programs, functions or activities at the Central Office level, the tribal share represents a portion of the administrative overhead as such costs are specifically and functionally related to the delivery of services to all Tribes.

The proposal includes one formula for Central Office operations funds and another for pooled overhead and special programs. The formulas were calculated by determining the residuals for each line item listed under both operations and pooled overhead. Included as part of the proposal is a description of services a Tribe can expect to receive if the Tribe opts to take its share of funds controlled by the Central Office. At a minimum, we know that tribal shares will have to be delivered to all self-governance Tribes. For the self-determination contracting Tribes, we propose to publish a 30-day notice in the Federal Register announcing the opportunity to take tribal shares. We will deliver tribal shares to as many as apply during the 30-day window.

Our best estimate of the total dollar value of tribal shares we will have to deliver from the Central Office, based on the

President's 1996 budget, is approximately \$4 million for self-governance Tribes and \$22 million for contracting Tribes. As one can see from this description of the tribal shares determination process, there is no doubt that the BIA will have to reorganize in order to deliver the shares to those Tribes requesting them.

While this process provides the surest means to reorganize and downsize the BIA, there are other factors which we expect will influence this effort. The most significant will be any reduction in the BIA's budget for FY 1996. We are aware of the preliminary proposals being made by the House of Representatives to reduce the BIA budget below the FY 1995 enacted level. In anticipation that the Senate may concur with at least some of the reductions in the House proposals, we are already in the process of prioritizing programs, operations, and staffing needs from which a smaller amount of tribal shares would then be identified and distributed. Even with a small percentage reduction in the BIA FY 1996 budget, the BIA will have to further reduce its staffing and operations in order to deliver tribal shares.

In addition, the streamlining effort currently in effect under the mandates of the National Performance Review initiative will also impact on the BIA organization. While the BIA has been given a moratorium on the NPR's 50 percent overall reduction of headquarters and Central Office FTE's, the BIA must still meet the 50 percent reduction in administrative positions in budgeting, accounting, acquisitions, and personnel.

In this regard, the BIA has begun to plan for the consolidation of these types of administrative positions in one location. I should emphasize that the consolidation of these administrative functions will not have the impact some Tribes have contended. These functions represent the administrative services provided to the BIA as a Federal organization and do not include the services provided to Tribes in conjunction with the self-determination contracting and compacting processes.

Moreover, we do not expect all Area administrative functions to be relocated to the common support center until it becomes cost effective to do so. We expect that as more and more Tribes take their tribal shares of Area Office functions, the Areas will not be able to afford maintenance of separate administrative functions. Until this occurs, the consolidation of administrative services will affect only the Central Office headquarters functions. Now that I have described our proposal for reorganization, I want to comment briefly on several provisions contained in S. 814.

We strongly support the objective of the savings provision in S. 814. The Department agrees that as more and more functions are transferred to the Tribes, and delegations of authority enacted to facilitate decision-making at the lowest level, Tribes will require additional resources to meet their increased authorities and responsibilities. As part of Interior's REGO II proposal announced in March, any savings resulting from BIA streamlining will be provided to tribal programs. Congressional proposals would not return the savings to the Tribes, and we are concerned that this will have a severe impact on their programs.

With regard to the provision calling for suspension of NPR initiatives, we believe that it is not necessary to legislatively mandate such a suspension. As we previously reported, the NPR streamlining initiative to reduce headquarters staffing has been suspended in response to strong tribal opposition. Although the BIA must still meet the NPR reductions in targeted administrative positions described earlier, we do not oppose such reductions. For too long the BIA, like other Federal Agencies, has had the option of duplicating administrative services throughout the organization. Common sense in this tight budget climate dictates that the BIA can no longer afford duplicative administrative services.

We note the provision on Budget Development and would like to report that the BIA is in its fourth year of implementing the Joint Tribal/BIA/DOI Task Force on Reorganization recommendation to establish a Tribal Budget System (TBS). Even though we have implemented the TBS, we continue to work on improvements to further accommodate the budget formulation needs of the Tribes. However, we do not believe that legislation is needed to implement this recommendation.

We also do not support the provision on Standard Assessment Methodology because we believe it will not be an efficient or effective process to provide an objective measure of the overall need for government funded services. We reached this conclusion after the Indian Child Welfare Assistance Program used this methodology over the past year in a pilot program. The Tribes who worked extensively on this high cost project will agree with us and note that they were extremely disappointed because their hopes had

been raised without achieving tangible results. We will prepare a final evaluation on this project, but our initial response to this provision is that it is too costly and produces questionable results.

Finally, with regard to the proposal to reform the regulations of the BIA, we agree and are pleased to report that we have already begun to re-examine the need for extensive regulations and the appropriateness of the directives contained in the BIA Manual. To date, over 2,000 pages of the BIA Manual have been eliminated. In addition, we have recently completed a regulatory review and noted all the provisions of Title 25 of the Code of Federal Regulations which can be eliminated. This is an effort that the BIA fully supports and will implement wholeheartedly.

In closing, I want to thank the Committee for inviting me to present the Department's views on this legislation. I am committed to working with you and the Tribes to reorganize the BIA into a more responsive, cost efficient, Bureau of Indian Affairs.

This concludes my prepared statement. I will be happy to answer any questions the Committee may have.